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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,360	02/12/2004	Quyen Cao Hoang		5079

7590 10/26/2006

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EXAMINER

KRISHNAN, MALINI

ART UNIT PAPER NUMBER

1714

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,360

Applicant(s)

HOANG, QUYEN CAO

Examiner

Malini Krishnan

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/12/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference number 5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The term "it's" and the phrase "...the package would be place..." on page 4, line 3 are not grammatically correct.

Appropriate correction is required.

Claim Objections

3. Claim 6 is objected to because of the following informalities: The term "additional" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "several" in part (c) of claim 1 renders the claim indefinite because applicant has not defined the term with regard to number of compartments.

6. Claim 1 recites the limitation "the several interior compartments" in part (c). There is insufficient antecedent basis for this limitation in the claim.

7. Claims 2-5 are indefinite because they are dependent on claim 1.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Howarth (GB/2369371), hereinafter referred to as Howarth.

Howarth discloses a solid fuel package in which varieties of solid fuel are placed. The package is a paper sack and contains a divider means forming separate compartments. Solid fuel pieces of any suitable combustible material, such as

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briquetted solid fuel, are contained in one compartment and another variety of solid fuel, such as charcoal-based fuel, is kept in the other (Page 3, line 15; Page 4, lines 12-14, 19-22; Page 5, lines 18-22; Claims 1, 2, 9, 10, 19, 20). It is the examiner's position that the term "sack" is synonymous for "bag" in claim 2 of the present invention.

Furthermore, it would be inherent that a grilling enthusiast using the bag of Howarth would be able to enjoy the benefits of the package because it includes more than one type of solid cooking fuel.

Thus, Howarth anticipates every limitation of claims 1, 2 and 6.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 3-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howarth in view of Gramm ('443).

The discussion of Howarth in paragraph 6 above is herein incorporated by reference.

Howarth does not disclose lighter fluid impregnated charcoal briquettes or hardwood charcoal as types of fuel enclosed in the package.

Gramm ('443) discloses packaged charcoal fuel comprising a bag with an enclosed interior space in which types of charcoal contained include lighter fluid impregnated charcoal briquettes and hardwood charcoal (Claims 1 and 2). The impregnated charcoal briquettes provide the advantage of avoiding the need for "starter" fuel along with the charcoal (Col. 2, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to combine the teachings of Howarth and Gramm ('443) in order to package a variety of solid cooking fuels, which do not require the use of "starter" fuels. Although lighter fluid impregnated charcoal and hardwood charcoal are not specifically described in Howarth, the types of solid fuel disclosed are open to include any "suitable combustible material". Furthermore, the charcoal can be impregnated with any "suitable ignition enhancer" (Page 4, lines 19-22). Therefore, it is the examiner's position that the fuel of Howarth includes in its entirety the fuel of Gramm ('443).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 2738260, 4460377, 2240335.

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With regard to 2738260 and 4460377, compartmentalized fuel packages are disclosed with kindling or igniting material enclosed in one compartment. 2240335 discloses a fuel package, which encloses only one compartment.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malini Krishnan whose telephone number is 571-272-6519. The examiner can normally be reached on Monday through Friday, 8:00 am - 5:00 pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/19/06

nk

Callie Shosho
CALLIE E. SHOSHO
PRIMARY EXAMINER